REMARKS

Claims 1-46 are currently pending in the application. Claims 1-32, 35, and 37-46 were rejected. Claims 33, 34, and 36 were objected to.

The Examiner rejected claims 1-32, 35, and 37-46 under 35 U.S.C. 102(a) as being anticipated by U.S. Patent No. 6,601,098 (Case). The rejection is respectfully traversed.

Case describes "a technique to measure network latency between a client and a server." See column 3, lines 48-50. The manner in which this latency measurement is accomplished is described in columns 7 and 8 with reference to the flowchart of Fig. 4. When a server implementing Case's technique in a TCP/IP network receives a request from a client which is directed to the URL which triggers the technique, the server stores a time stamp T1 along with the client's IP address. See column 7, lines 43-62. The server then redirects the client to a second URL. When the server receives the client's request to the second URL, it generates a second time stamp T2. See column 7, line 62, to column 8, line 24. The server uses the client's IP address as the key to retrieve the first time stamp, computes the difference between T1 and T2, and stores the result "for use by a subsequent process or application that may benefit from use of network latency information." See column 8, lines 24-35. Notably, Case provides very little guidance as to how this information might be used or processed.

By contrast, claim 1 of the present invention recites "a latency counter operable to generate a latency count for each of selected" memory transactions, "each latency count representing time required for completion of at least a portion of the corresponding transaction. Claim 1 also recites "a plurality of histogram counters," each of which is "operable to count selected ones of the latency counts corresponding to an associated latency range." That is, each histogram counter tracks the number of transaction latencies (as determined by the latency counter) which fall within a particular latency range.

For example, one histogram counter might be responsible for counting latency counts

which fall within the range 600-700 clock cycles while another would be responsible for counting latency counts which fall within the range 700-800 clock cycles, and so on. So, not only does the invention recited in claim 1 include the tracking of latencies for specific memory transactions, it also includes a second level of counting (a counting of the latency counts), i.e., where each of these transaction latencies fits with respect to multiple ranges within an overall time window.

Case neither describes nor suggests the tracking of how many such latency counts correspond to particular latency ranges. That is, Case fails to show the use of histogram counters to count the latency counts as recited in claim 1. The Examiner referred to 410 and 430-450 of Fig. 4 and 300 and 305 of Fig. 3b as anticipating the histogram counters recited in the claims of the present application. The Applicant respectfully disagrees with the Examiner's characterization.

As discussed above, Fig. 4 is a flowchart illustrating operation of Case's technique to measure the network latency between a client and a server in a TCP/IP network. In step 410, the process saves the first time stamp T1. In step 430, the process saves the second time stamp T2. In steps 435, 440, and 445, the process retrieves T1, calculates the difference between T1 and T2, and stores the result. In step 450, the original page requested by the client is delivered. In other words, as described above, the steps in the flowchart to which the Examiner referred describe only the measurement of the network latency of a single transaction between the client and the server. See column 7, line 57, to column 8, line 38.

Fig. 3b is a simplified network diagram illustrating the requests and responses (310-325) between the client 300 and the server 305' during execution of Case's latency measurement technique. As with the flowchart of Fig. 4, the diagram of Fig. 3b describes only a single measurement of the network latency between client 300 and server 305'. See column 7, line 1-25. Thus, the Examiner's characterization of any of the elements to which he referred as the

claimed histogram counters is simply unsupportable. None of these elements goes beyond a single latency measurement. In fact, all of them are required in combination to describe just a single latency measurement.

Because Case fails to teach or suggest a plurality of histogram counters for counting latency counts for corresponding latency ranges, it is respectfully submitted that the rejection of the claims of the present application over Case is overcome.

The Applicant respectfully acknowledges the Examiner's indication of allowable subject matter in claims 33, 34, and 36. However, in view of the foregoing, these claims are believed to be allowable without amendment.

In view of the foregoing, Applicant believes all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (510) 663-1100.

Respectfully submitted,
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